

**Testimony of Rhonda Boisvert**  
**President, Connecticut Association of Residential Care Homes**

*Concerning*

*Section 12 of H.B. No. 5020 AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET  
RECOMMENDATIONS REGARDING PUBLIC HEALTH.*

Public Health Committee Public Hearing, March 6, 2020

Senator Abrams, Representative Steinberg, Senator Somers, Representative Petit, and Esteemed Members of the Public Health Committee, thank you for the opportunity to offer testimony regarding Section 12 of House Bill 5020- An Act Implementing the Governor's Budget Recommendations Regarding Public Health.

My name is Rhonda Boisvert and I am the President of the Connecticut Association of Residential Care Homes also known as CARCH. I own two residential care homes, one in Haddam and one in Watertown.

Since this bill was proposed by the Governor, CARCH has been in discussions with the Administration about changing Section 12 and we appreciate that the Office of Policy and Management, Department of Public Health and Department of Social Services are listening to our concerns and trying to find an alternative.

However, residential care homes are a small communal living arrangement, averaging about 24 beds, with most rooms being doubles. The great majority of our residents are low-income with a mental or substance abuse disability.

Our residents are not in a private apartment, but Section 12 would apply the tenant/lease laws to our residents and allow an appeal to Superior Court. This appeal could take around a year from when a final discharge is determined appropriate by the Department of Public Health.

When a residential care home undertakes the current process for involuntary discharge, it usually is because a resident needs a higher level of care (residential care homes do not provide medical services) or the resident is affecting the health and welfare of other residents.

**Current Discharge Process**

Currently, the discharge process is an administrative proceeding through the Department of Public Health. Discharges can be done for emergency reasons where the health and safety of our residents or employees are at stake or other reasons such as continual non-payment.

Pursuant to 19a-535a, "[i]n an emergency the facility may request that the commissioner make a determination as to the need for an immediate transfer or discharge of a resident." These instances can include when residents pose a physical threat to other residents or staff, a health risk to themselves or others such as

decompensation or failure to take meds or care for themselves, continual smoking indoors creating a fire hazard, or other threatening behaviors.

In non-emergency situations, the risk may be less pressing in that the resident may not be a danger to themselves or others but there is still a need for a discharge. This may include failure of a resident to pay what is owed to the facility despite having the payment available. In a home of eight beds, losing one eighth of your revenue as you have to go through a formal discharge process with the Department of Public Health can be a challenge.

Overall, these situations are limited and amount to few formal discharges a year. However, these cases under the current process can still become dragged out and costly for the home. Between the initial discharge, responses from the resident, and the administrative hearing such cases can already take 3-4 months.

### **Proposal to Change the Discharge Statute**

This proposal to change the discharge statute is being made so that residential care homes qualify as a home and community-based setting for purposes of receiving services through the Home and Community Based Waiver. We think it is important that citizens on the waiver do have access to home and community-based options which may include residential care homes. However, only about 250 out of our approximately 2,500 residents are on the current waiver. Please also note that many homes have no residents on the waiver.

This proposal has come about after over two and a half years of discussion with the Departments of Public Health and Social Services. Despite those continued discussions, no agreement or final decision on how to proceed was made.

Instead, our Association urged adoption of a bifurcated residential care home model that would allow homes to opt into the requirements of a home and community based model. We discussed that potential proposal at length over many meetings but that is unfortunately not the language that is before you.

The major proposed change to the discharge statute is the ability to appeal to Superior Court but the language also extends deadlines and longer processes for residents to challenge discharges. We understand that pursuant to the Home and Community Based model there needs to be comparability to the landlord-tenant statutes and specifically the ability for a resident to appeal a discharge decision. However, we don't agree that it needs to be an appeal to Superior Court, that the discharge statute needs to change for all homes or that time frames need to be extended.

We have significant concerns about this change and the ability to appeal. Unlike landlord-tenant arrangements, these are communal living situations where most residents have a roommate and share a house with other individuals who may have their own mental health or substance abuse diagnoses.

### **Residential Care Home Background Info and Challenges**

By way of background, residential care homes are not medical models and offer residents a home like living environment with oversight and supports. Many residents have a mental health diagnosis and across the state residential care homes serve mostly people with behavioral health diagnoses. We have estimated such residents make up 80-85% of the overall residential care home population served. Other residents can be elderly but often don't require constant medical oversight.

Our industry cares for some of the most vulnerable residents, including many residents who have co-occurring disorders that may include a substance abuse problem. We accept resident referrals from a variety of sources and often serve residents who would otherwise be homeless or in an institutional setting. This proposal may disincentivize some homes from accepting some individuals who may have struggled in previous environments. The risk and costs associated with discharge could unfortunately discourage homes from accepting some residents.

It is important to note that residential care homes provide a home like setting and structure with house rules to help our residents. When a resident disrupts the home, particularly in a way that can place the health and safety of our other residents in harms way, the home has a responsibility to deal with the problem. The last resort is discharge but that option needs to be available to protect everyone in the home including employees.

Discharge is certainly not something any home wants to undertake. This is compounded by our deep concerns about the potential cost to a home to discharge a resident. Some homes have had to utilize attorneys and spent tens of thousands of dollars. These expenses are not reimbursable, and most homes have little means to afford such services. Our rates have largely been capped and it is hard enough to retain employees with low wages and a challenging position.

Adding an additional appeals layer will add significant costs to some discharges. Residents will be made well aware of their right to appeal and as in some cases now are likely to drag appeals out. Many homes already find the discharge process challenging- this will only add additional time and costs.

### **Conclusion**

Our Association, as evidenced by our many members who have provided this committee testimony, has significant concerns with these proposed changes to the discharge process outlined in Section 12 of the bill.

We continue to engage with the Office of Policy and Management, Department of Social Services, Department of Public Health, Long-Term Care Ombudsman and Leading Age and are still discussing ways to change the discharge statute. Our Association wants residents to have community-based options like residential care homes as part of the waiver. However, such significant changes should not be forced on all homes.

Respectfully –

Rhonda Boisvert, President  
Connecticut Association of Residential Care Homes